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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,132	11/20/2003	Reidar Wasenius	P3187US00	9090
36671 7590 08/02/2010 DITTHAVONG MORI & STEINER, P.C. 918 Prince Street Alexandria, VA 22314				
EXAMINER				
SALCT, JASON P				
ART UNIT		PAPER NUMBER		
2421				
NOTIFICATION DATE		DELIVERY MODE		
08/02/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

### Office Action Summary

**Application No.**

10/718,132

**Applicant(s)**

WASENIUS, REIDAR

**Examiner**

Jason P. Salce

**Art Unit**

2421

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 4, 7, 9-13 and 17-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-4, 7, 9-13 and 17-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-4, 7, 9-13 and 17-24 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 7 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification fails to support that **"the person"** appears in the television program. Applicant specification states that a person participates in the talk show, however this could be either a person joining/entering the chat conversation/talk show/game show/auction/quiz, without appearing in the television show itself. The Examiner cannot find that a person appears in the television program in Applicant's specification.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-4, 7, 9-12, 17-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagaoka et al. (U.S. Patent Application Publication 2002/0092024) in view of Jones et al. (U.S. Patent Application Publication 2004/0137929) in further view of DeWeese et al. (U.S. Patent Application Publication 2005/0262542).

In regards to the Jones Application, the Examiner has determined that the publication date of PCT application PCT/GB2001/005306 (also known as WO/2002/045273) has a publication date of June 06, 2002 and is therefore a valid prior art reference (**see WIPO website**).

Referring to claim 1, Nagaoka discloses storing user specific parameters regarding at least one television program in a network element (**see TMS 3/network element in Figure 1 and Paragraph 0047 for receiving data/parameters related to television programs that are transmitted to mobile phone users and are therefore user specific parameters**), said user specific parameters including information identifying a mobile station of said user (**see Paragraph 0084 for the TMS 3 including sender IDs**) and information indicating an event which occurs in said at least one

television program after said storing of the user specific information (see **Paragraph 0083 for the TMS 3 further storing data in TBL3 which contains television program event information that is transmitted and stored before the start of the television, thereby teaching "after said storing of the user specific information"**).

Nagaoka also discloses cause, at least in part, actions that result in transmission of a message from said network element via a mobile packet communication system to a mobile station in response to said event occurring in said television program being broadcasted (see **Paragraphs 0109-0110 for transmitting a message from TMS 3 (via mobile packet communication system 5) in response to the start of a television program**), said message controlling said mobile station to display on a display of said mobile station the information included in the message (see again **Paragraph 0109-0110 for displaying the name of the program being distributed**) in order to provide said user with the information of the person participating in said event (see **Figures 15-18 and 19A-19C**) via said mobile station as soon as the person achieves a goal in the television program (see **Figure 19A for the user achieving the goal of making the winning bid for the purchase of the wrist watch shown in the television program**).

Although Nagaoka discloses a mobile packet communication network 5, a mobile packet communication network is not limited to only a cellular radio network/system and therefore fails to teach a cellular radio system.

Jones discloses a similar system architecture to Nagaoka, but specifically teaches a cellular radio system (see **Paragraph 0051**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the mobile packet communication network 5, as taught by Nagaoka, using the cellular radio system, as taught by Jones, for the purpose of using an existing network used to transmit and receive data from cellular/mobile phones.

Nagaoka and Jones fail to teach that the person appears in the television program.

DeWeese discloses an interactive system where a user and participants/persons can enter an interactive television show and appear in the television show with other users on the television screen (**Figure 9 and Paragraph 0093**). Therefore, adding to the system of Nagaoka by allowing the user currently bidding on a wrist watch to see how many other people are bidding on the wrist watch.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive television program, as taught by Nagaoka and Jones, using the displayed avatars or participants, as taught by DeWeese, for the purpose of providing the opportunity to engage in chat groups consisting exclusively of other viewers of the television program or channel (**see Paragraph 0010 of DeWeese**).

Referring to claim 3, Nagaoka discloses that said TV apparatus is controlled to display predetermined text TV pages as such (**see Figure 2 and Paragraph 0045**).

Referring to claim 4, Nagaoka discloses transmitting additional information relating to the program (**see Figure 2 and Paragraph 0045 for displaying not only the television program advertising a wrist watch for sale, but further displaying the product, company name and current bid**).

Referring to claim 7, see the rejection of claim 1.

Referring to claim 9, Nagaoka also discloses storing additional information relating to said at least one television program (**see Paragraph 0113 for storing additional data D7 and D8**).

Nagaoka also discloses retrieving said user specific parameters from said memory and selecting additional information from said memory based on said user specific parameters (**see Paragraph 0113 for retrieving the D7 and D8 additional data used to request the users of the mobile phones 1A and 1B if they would like to participate in the auction**).

Nagaoka also discloses generating an additional message containing the selected additional information (**see Paragraph 0013 for generating a message including the D7 and D8 data to transmit to mobile phones 1A and 1B requesting if the user would like to participate in the auction**).

Nagaoka also discloses transmitting said additional message via said cellular radio system to said mobile station of said user during the broadcasting of said

television program **(see the end of Paragraph 0013 for distributing/transmitting the additional message to the mobile phones 1A and 1B).**

Referring to claim 10, Nagaoka discloses that said memory contains additional information relating to betting, a quiz or a lottery **(see Figure 10 for storing bid information and further note the fifth modification at Paragraph 0189 for introducing a quiz embodiment).**

Referring to claim 11, Nagaoka discloses retrieving program information from said memory and transmitting said retrieved program information via said cellular radio system to a mobile station as a response to a request for program information received from said mobile station **(see Paragraph 0117 for additionally receiving data D11 and D12 after the user has requested to participate in the auction).**

Referring to claim 12, Nagaoka discloses receiving, via said cellular radio system, from a mobile station, information including user specific parameters for a television program **(see Paragraph 0119 for receiving bids from the mobile phones 1A and 1B)**, and storing the received user specific parameters including information identifying the mobile station in said memory **(see Figure 10 for storing the bid information).**

Referring to claim 17, see the rejection of claim 1.



Referring to claim 18, Nagaoka discloses automatically displaying at the mobile station the information of the person participating in the television program (**see Figures 16-18 and 19A-19C**).

Referring to claim 19, see the rejection of claim 18.

Referring to claim 20, Nagaoka discloses that the message is sent to the mobile station (**see Paragraph 0109 for receiving message D1**), and the mobile station generates another control message (**see Paragraph 0119 for mobile phone 1A generating a bid message**) and sends the another control message to said TV apparatus (**see Paragraphs 0123-0124 for updating the report data which is multiplexed with the television program and transmitted to the user's televisions, therefore each user watching the auction television program and view the most up-to-date bid on the wrist watch**).

Referring to claim 21, Nagaoka, Jones and DeWeese discloses all of the limitation of claim 1, but fail to teach sending a reminder message to the mobile station for turning on said TV apparatus and in response to the reminder message, generating a control message in IR light by the mobile station to said TV apparatus to turn on said TV apparatus.

The Examiner takes Official Notice to the fact that cellular phones/remote control combinations exist for receiving messages to turn on a TV apparatus using an IR signal.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the mobile phone, as taught by Nagaoka, Jones and DeWeese, using the reminder message and IR signal used to turn on the TV based on the received reminder message, as taught by the Examiner's Official Notice, for the purpose of preventing a viewer from missing his/her preferred television program.

Referring to claim 24, Nagaoka teaches charging the user of the mobile station for receiving the information of the person (**see Figures 19B-19C**).

Claims 13 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagaoka et al. (U.S. Patent Application Publication 2002/0092024) in view of Jones et al. (U.S. Patent Application Publication 2004/0137929) in further view of DeWeese et al. (U.S. Patent Application Publication 2005/0262542) in further view of Sumita et al. (U.S. Patent Application Publication 2003/0100962).

Referring to claim 13, Nagaoka, Jones and DeWeese teach all of the limitations of claim 7, but fails to teach storing a list of different TV apparatus models and for each TV apparatus model information defining the control signals for controlling the respective TV apparatus model and retrieving the information defining the control signals from said memory for controlling a specific TV apparatus model and transmitting

the information via the cellular radio system to a mobile station, as a response to a request from said mobile station.

Sumita discloses a network element that further comprises a memory containing a list of different TV apparatus models and for each TV apparatus model information defining the control signals for controlling the respective TV apparatus model (**see database center 7, which includes database 71 in Figure 1 and Paragraph 0078**).

Sumita also discloses that a processing unit is configured to retrieve the information defining the control signals from said memory for controlling a specific TV apparatus model and to transmit this information via the cellular radio system to a mobile station, as a response to a request from said mobile station (**see Figures 9-10 and Paragraphs 0090-0099**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the system of Nagaoka, Jones and DeWeese, using the TV apparatus model control system, as taught by Sumita, for the purpose of allowing a user to remotely control every electrical appliance, no matter which appliance the users current have and/or will have (**see Paragraph 0010 of Sumita**).

Referring to claims 22-23, Nagaoka, Jones and DeWeese discloses all of the limitation of claim 1, as well as storing a list of TV apparatus and corresponding controls signals (**see Sumita in the rejection of claim 21**), but fail to teach that the TV apparatuses are located at public and private locations such as a private home, hotel room, public bar or airport lobby.

The Examiner takes Official Notice to the fact that TV apparatuses can be located at public and private location such as a private home, hotel room, public bar or airport lobby.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the location of the TV apparatuses, as taught by Nagaoka, Jones and DeWeese, to be located at various locations, as taught by the Examiner's Official Notice, for the purpose of allowing user to participate in the comfort of their own home or in a public location, therefore preventing the user from missing an opportunity to purchase an item he/she wishes to own.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/  
Primary Examiner, Art Unit 2421

Jason P Salce  
Primary Examiner  
Art Unit 2421

July 26, 2010

